



## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** MIKE MILILLO, CSBA, SENIOR PLANNER *MM*  
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**THROUGH:** CATHERINE LORBEER, AICP, PRINCIPAL PLANNER *chl*  
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**MEETING DATE:** FEBRUARY 5, 2014

**SUBJECT:** Z13-30: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.107 ADDITIONAL USE REGULATIONS, SUBSECTION A ANIMALS RELATED TO AMENDING THE REGULATIONS PERTAINING TO THE KEEPING OF FOWL AND RODENTS IN RESIDENTIAL ZONING DISTRICTS.

**STRATEGIC INITIATIVE:** Community Livability

This proposal will allow residents greater flexibility in keeping and housing fowl on medium to large size residential properties.

### RECOMMENDED MOTION

**FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z13-30, AS REQUESTED.**

## **BACKGROUND/DISCUSSION**

### **History**

<i>Date</i>	<i>Action</i>
Sept. 3, 2013	Town Council discussed the proposed Fowl Regulations text amendment in Study Session and directed staff to initiate the text amendment to the Land Development Code (LDC).
Nov. 6, 2013	Planning Commission held the citizen review session and initiated the proposed text amendment.

### **Overview**

In 2009, Planning staff formed a stakeholders group, which met to discuss, among other things, potential modifications to the animal regulations pertaining to fowl in certain single family districts. In addition to staff members, the stakeholders in this group had expertise or experience with homeowners associations and with raising animals or living in close proximity to animals in residential neighborhoods.

The proposed text amendment will amend the animal regulations within certain single family zoning districts in Gilbert. The text changes closely mirror a proposal presented to the Planning Commission in 2010 as part of a larger amendment to the Single Family Residential District land use and development regulations. The majority of the previous text amendment was approved by Town Council, but the proposed changes to the animal regulations were removed at the request of Councilmembers, prior to Council review and approval.

At a September 2013 Study Session, Town Council directed staff to revisit the fowl regulations with one modification from the original amendment, that being removing peacocks from the definition of fowl. Staff plans to amend the Municipal Code definition of fowl to remove peacocks concurrent with this LDC amendment.

Planning staff compared Gilbert's fowl regulations with those of our neighboring communities: Chandler, Queen Creek and Mesa. This comparison, summarized in Attachment 1, indicates that adjoining communities generally permit chickens on larger lots and that a greater number of animals are permitted on larger lots than on smaller lots. With the proposed amendment, Gilbert's regulations would be comparable or more permissive in terms of zoning districts and numbers of animals.

The effect of this text amendment will be to revise the number of fowl permitted in certain single-family residential zoning districts, to permit keeping roosters and to require aviaries to be located within the building envelope rather than at least 100 feet from any property line.

### **Existing Zoning Code**

The existing Section 2.103 for Land Use Regulations in Single-Family Residential Districts reads as follows:

## 2.103 Land Use Regulations

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**Table 2.103: Land Use Regulations – Single Family Residential Districts**

<i>Use Classification</i>	<i>SF-43</i>	<i>SF-35</i>	<i>SF-15</i>	<i>SF-10</i>	<i>SF-8</i>	<i>SF-7</i>	<i>SF-6</i>	<i>SF-D</i>	<i>SF-A</i>	<i>Additional Regulations</i>
Animal Raising, Non-Commercial	P	P	P	P	P	--	--	--	--	See Section 2.107
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"P" designates permitted uses.

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## 2.107 Additional Use Regulations

A. ***Animals.*** In addition to the regulations set forth in Chapter 6 of the Municipal Code and Section 2.103: Land Use Regulations, the following regulations shall apply:

1. ***Rodents and Fowl:***

a. On each lot up to 20,000 net square feet of area, any combination of up to 25 rodents and fowl are permitted. For each additional 20,000 square feet of lot area, an additional 25 rodents or fowl are permitted.

b. Aviaries shall be located at least 100 feet from any property line.

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## **Proposed Zoning Code**

Staff requests that the Planning Commission recommend approval for a text amendment to modify the LDC relating to Single-Family Residential zoning districts. The LDC would be amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

## 2.103 Land Use Regulations

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**Table 2.103: Land Use Regulations – Single Family Residential Districts**

<i>Use Classification</i>	<i>SF-43</i>	<i>SF-35</i>	<i>SF-15</i>	<i>SF-10</i>	<i>SF-8</i>	<i>SF-7</i>	<i>SF-6</i>	<i>SF-D</i>	<i>SF-A</i>	<i>Additional Regulations</i>
Animal Raising, Non-Commercial	P	P	P	P	P	--	--	--	--	See Section 2.107
***										

## **2.107 Additional Use Regulations**

A. ***Animals.*** In addition to the regulations set forth in Chapter 6 of the Municipal Code and Section 2.103: Land Use Regulations, the following regulations shall apply:

1. *Rodents and Fowl:*

- a. On each lot ~~up to 20,000~~ BETWEEN 8,000 AND 10,000 net square feet of area, any combination of up to ~~25~~ 10 rodents and fowl are permitted. ~~For each additional 20,000 square feet of lot area, an additional 25 rodents or fowl are permitted.~~
- B. ON EACH LOT BETWEEN 10,000 AND 20,000 NET SQUARE FEET OF AREA, ANY COMBINATION OF UP TO 25 RODENTS AND FOWL ARE PERMITTED. FOR EACH ADDITIONAL 10,000 SQUARE FEET OF LOT AREA, AN ADDITIONAL 12 RODENTS OR FOWL ARE PERMITTED.
- C. Aviaries shall be located ~~at least 100 feet from any property line~~ WITHIN THE BUILDING ENVELOPE.
- D. ONE (1) ROOSTER OVER FOUR MONTHS OLD SHALL BE PERMITTED FOR EACH 20,000 SQUARE FEET OF LOT AREA WITH THE EXCEPTION OF THOSE KEPT FOR “CROP AND ANIMAL RAISING, COMMERCIAL”, PROVIDED THAT THE ROOSTER IS CONTROLLED OR CONTAINED IN SUCH A MANNER AS TO COMPLY WITH MUNICIPAL CODE CHAPTER 6, SECTION 6.2 (NOISY ANIMALS).

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## **PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

At the Planning Commission citizen review study session, two residents expressed support for the proposed text amendment, one of whom favored permitting fowl on lots smaller than 8,000 square feet. Staff has received an email from one resident in support of the amendment.

On January 23, 2014, staff met with four residents who live in Gilbert, Chandler and Mesa to discuss their interests in keeping fowl on smaller lots (SF-6, SF-7) than currently permitted by the LDC. They indicated that they would likely prepare a proposal allowing less chickens on these smaller lots for Planning Commission consideration.

### **STAFF RECOMMENDATION**

For the following reasons: the proposed amendments will allow residents greater flexibility in keeping and housing fowl on medium to large size residential properties, the Planning Commission moves to recommend approval to the Town Council for Z13-30 , a request to amend Land Development Code regulations pertaining to the keeping of fowl and rodents in residential zoning districts.

Respectfully submitted,

Mike Milillo  
Senior Planner, CSBA

#### **Attachments:**

Attachment 1: Fowl Regulations Comparison

Attachment 2: Minutes from a Planning Commission Study Session, dated November 6, 2013

**Fowl Regulations Comparison:**

<b><i>CITY/ TOWN</i></b>	<b><i>REGULATIONS</i></b>	<b><i>Zoning District(s)</i></b>
<b><i>GILBERT</i></b>	<p><b>Land Development Code Article, 6.1: Use Definitions</b></p> <ul style="list-style-type: none"> <li><b>Animal Raising, Non-Commercial.</b> The keeping, grazing or feeding of fowl or animals not for profit.</li> </ul> <p><b>Land Development Code, Article 2.103: Land Use Table</b></p> <ul style="list-style-type: none"> <li>Animal Raising, non-commercial – Permitted use in SF-43 to SF-8</li> </ul> <p><b>Article 2.107 A.1: Additional Use Regulations - Animals Rodents and Fowl</b></p> <ul style="list-style-type: none"> <li>On each lot up to 20,000 net square feet of area, any combination of up to 25 rodents and fowl are permitted. For each additional 20,000 square feet of lot area, an additional 25 rodents or fowl are permitted.</li> <li>Aviaries shall be located at least 100 feet from any property line.</li> </ul> <p><b>Gilbert Municipal Code Chapter 6, Article III. Livestock and Nondomestic Animals</b></p> <p><b>Sec. 6-126 Definitions</b></p> <ul style="list-style-type: none"> <li><i>Fowl</i> means chicken, duck, turkey, pigeon, macaw, parrot, peacock, and other large bird</li> </ul> <p><b>Sec.6-127. Keeping of animals; restrictions</b></p> <p>(a) <i>Conditions generally.</i> It is lawful for any person to keep fowl, rodents, registered pigeons, exotic animals or livestock within the town, but only in the manner and upon the conditions set forth in this article and in the Town of Gilbert Zoning Code.</p> <p><b>Sec. 6-2. Noisy animals.</b></p> <p>It is unlawful to keep or harbor any animal which by frequent, habitual or continued noise shall cause an annoyance or inconvenience to a neighbor or to people passing to and from upon the public streets or sidewalks. No summons and complaint shall be issued nor there a conviction for violation of this section unless there are at least two complaining witnesses</p>	<p>Permitted in SF-43, SF-35, SF-15, SF-10 and SF-8</p> <p>Not permitted in SF-7, SF-6, SF-D, SF-A</p>

	<p>from separate households who shall have signed such complaint and shall have testified at trial.</p> <p><b>Editorial Comments:</b> From January 1<sup>st</sup>, 2010 to August 14<sup>th</sup>, 2013 the Code Compliance Department has had a total of 89 complaints involving chickens and roosters within various residential districts. A majority of complaints were from anonymous neighbors. The number of complaints is fairly low, and the numbers of complaints are similar to those in adjacent cities such as Mesa, Chandler and Queen Creek, over the same time period. Code amendment proposed in 2010, but never approved. See final page of this comparison.</p>	
<i>Chandler</i>	<p><b>Municipal Code Chapter 35 Land Use and Zoning</b></p> <ul style="list-style-type: none"> <li>AG-1 Agricultural District—Average lot size forty-three thousand (43,000) square feet</li> <li>SF-33 Single-Family District—Average lot size thirty-three thousand (33,000) square feet</li> </ul> <p><b>Municipal Code Chapter 35-401 Uses Permitted</b></p> <ul style="list-style-type: none"> <li>AG-1 – Agricultural District 35-401. Uses Permitted - (3) Raising and marketing of poultry, rabbits and other small animals.</li> </ul> <p><b>Municipal Code Chapter 35-501 Uses Permitted</b> (8) Agrarian subdivisions, subject to: (a) Livestock raising and grazing is permitted for a maximum of one (1) animal per ten thousand (10,000) square feet of lot area.</p> <p><b>Municipal Code Chapter 14-3 Consent required to keep animals within 200 feet of residences (exceptions as to household pets)</b></p> <ul style="list-style-type: none"> <li>No animal or fowl of any kind, except household pets, shall be kept or permitted in the City within a distance of two hundred (200) feet from the residence of any person, except the owner of the animal or fowl, or except the residence of any person who shall sign a written consent that the animals or fowl may be kept within such distance of their residence.</li> </ul> <p><b>Editorial Comments:</b> No roosters permitted in the city. Chickens permitted only on AG-1 &amp; SF-33 lots. There is no limit to the number of chickens in these districts. <b>ZCA12-0004 Urban Chickens:</b> A proposal to allow up to 5 hens per residential lot in all residential districts failed at City Council in July 11, 2013. The City Council voted to deny a zoning change that would have allowed residents to have up to five hens in backyard coops.</p>	<p>Permitted AG-1 – Agricultural District</p> <p>Permitted in SF33 – Single Family District</p> <p>Not permitted in SF-18, SF-10 and SF-8.5</p>
<i>Queen Creek</i>	<p><b>Zoning Ordinance Appendix A – Definitions</b></p> <p><b>AGRICULTURAL ANIMALS</b> The following animals (also known as livestock) and fowl are considered accessory to an agricultural or residential use, whether used for personal</p>	

	<p>enjoyment or for commercial purposes: horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, goats, ostrich, emu or rhea, alpaca, llama or similar animals or fowl (excluding pea fowl).</p> <p><b>LIVESTOCK/FOWL, SMALL-</b> Rabbits, ducks, chickens, geese or similar animals or fowl (excluding pea fowl). Ten small livestock or fowl is equivalent to one animal unit.</p> <p>Zoning Ordinance 4.2 Zoning Districts</p> <ul style="list-style-type: none"><li>• <b>A-1 Agricultural One (1) District – rural development</b> -Ten (10) acres per dwelling unit</li><li>• <b>R1-190 Rural Development District</b> - Five (5) acres per dwelling unit</li><li>• <b>R1-145 Rural Development District</b> - Three and one third (3 1/3) acres per dwelling unit</li><li>• <b>R1-108 Rural Development District</b> - Two and a half (2 1/2) per dwelling unit</li><li>• <b>R1-54 General Rural Development District</b> - One and one-fourth (1 1/4) per dwelling unit</li><li>• <b>R1-43 Rural Estate District</b> - One (1) acre per dwelling unit</li><li>• <b>R1-35 Suburban Residential Type A District</b> - Thirty five thousand (35,000) square feet per dwelling unit</li></ul> <p><b>Zoning Ordinance 6.2 Animal Regulations (A, B, B1 and Table 6.2)</b></p> <ul style="list-style-type: none"><li>• (A) The purpose of this §6.2 is to provide rules and regulations for the keeping of agricultural animals, household pets and other animals so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public.</li><li>• (B )No agricultural animal/livestock shall be kept, maintained or stabled on any lot less than 35,000 square feet, except for those developments previously approved by the council. On parcels of 35,000 square feet or more, livestock shall be permitted in the A-1and R1-35 and larger Zoning Districts and shall be subject to the following provisions.<p>(1) One animal unit is equivalent to one (1) large livestock animal, five (5) medium livestock animals or ten (10) small livestock animals/fowl as defined in appendix A.</p></li></ul> <p><b>Table 6.2 Permitted Animal Units in Residential Districts:</b></p> <table><tr><td>Square Footage of Residential Lot</td><td>Number of Animals allowed</td></tr><tr><td>35,000 sf to 39,999 sf</td><td>2</td></tr><tr><td>40,000 sf to 43,559 sf</td><td>3</td></tr></table>	Square Footage of Residential Lot	Number of Animals allowed	35,000 sf to 39,999 sf	2	40,000 sf to 43,559 sf	3	<p>Permitted on A-1, R1-190, R1-145,R1-108, R1-54, R1-43 and R1-35</p> <p>Not permitted on R-18 (18,000 sq ft lot), R1-15 (15,000 sq ft lot), R1-12 (12,000 sq ft lot), R1-9 (9000 sq ft lot), R1-8 (8,000 sq ft lot), R1-7 (7,000 sq ft lot),</p>
Square Footage of Residential Lot	Number of Animals allowed							
35,000 sf to 39,999 sf	2							
40,000 sf to 43,559 sf	3							

	<p>43,560 sf and larger*</p> <p>4</p> <p>One (1) additional animal unit permitted per 3,000 sf in excess of one acre (43,560 sf).</p> <p><b>Editorial Comments:</b> 35K-39K 20 Fowl, 40K-43K 30 Fowl, 43+ 40 Fowl plus 10/3K</p>	
MESA	<p><b>Mesa City Code</b>  <b>Public Nuisance and Animal Regulations Article IV Section 8</b></p> <p><b>Section 8-6-21 FOWL, RODENT, AND LIVESTOCK RESTRICTIONS</b> -It shall be a violation of this article for any person to keep fowl, rodents, or livestock within the city, other than listed in this chapter and permission is hereby given to any such person to keep and maintain the same, but only in the manner and upon the conditions set forth in this chapter.</p> <p>(A) No more than a total of ten (10) rodents or fowl or a combination of rodents and fowl shall be kept upon the first one-half (1/2) acre or less; for each additional ten (10) head of rodents or fowl, an additional one-half (1/2) acre of land is required. For areas larger than two and one-half (2-1/2) acres, the number of such rodents and fowl shall not be limited.(Resolution 4845)</p> <p>(B) Except as specified in Sections 11-3-2, 11-3-3, and 11-4-3 of this Code, it shall be a violation of this article to keep livestock or any similar large animal regulated by this chapter within the City on any property less than thirty-five thousand (35,000) square feet.(Resolution 4845,4968)</p> <p><b>Zoning Code 11-31-4: Animal Keeping (Accessory to Residential Uses)</b> Keeping animals in residential zones is allowed, subject to compliance with Public Nuisance and Animal Regulations Article 4 Section 8.</p> <p><b>Editorial Comments:</b> The regulations are a part of the City's nuisance ordinance, and are not a part of the zoning ordinance. The two ordinances are linked, in that an owner may request a Special Use Permit through Board of Adjustment if they wish to keep a higher number of livestock on their property.</p>	

**Z13-30 - Citizen Review and initiation of amendment to the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.107 Additional Use Regulations, Subsection A. Animals to amend the regulations pertaining to fowl.**

Senior Planner Mike Milillo stated that this case was a Citizen Review and request for initiation of a text amendment to the Land Development Code (LDC). This was actually part of a larger text amendment that went through in 2010. Staff formed a stakeholders group in 2009 and they looked at multiple amendments to the SF District regulations at that time. Almost all of those amendments were recommended for approval by the Commission and consequently approved by the Town Council with the exception of the animal regulations. At the time members of the Council felt that the animal regulations pertaining to fowl were fine the way they were and they were not looking for any modifications. Planner Milillo referred to the following information from page 3 of the staff report as to what the regulations are currently:

- a. On each lot up to 20,000 net square feet of area, any combination of up to 25 rodents and fowl are permitted. For each additional 20,000 square feet of lot area, an additional 25 rodents or fowl are permitted.
- b. Aviaries shall be located at least 100 feet from any property line.

Planner Milillo stated that subsection B has created a real problem for people in the community because aviaries (chicken coops) have to be located 100 feet from any property line according to the existing code. The problem being that this use is actually allowed in SF – 8 districts as well as all the way up to SF – 43. It is probably even difficult to meet a 100 foot property line setback on an SF – 35 or SF – 43 lots but it is impossible to have it on lots smaller than that. In 2009 – 2010 they came up with the current language and decided to have a breakdown of how many animals you can have on the smaller lots versus just allowing up to 25 on lots of up to 20,000 sq. ft. The modification calls for calls for between 8,000 and 10,000 ft.<sup>2</sup> of lot area where you would be allowed 10 animals and on each lot between 10,000 and 20,000 ft.<sup>2</sup> you would be allowed a combination of up to 25 and for each additional 10,000 ft.<sup>2</sup> an additional 12 animals are permitted. It basically allows a smaller number of animals on smaller lots and a larger number of animals on larger lots. The stakeholders at the time thought that made a lot of sense. In terms of the aviaries, instead of having just a blanket 100 foot separation from all property lines, they will be, with this amendment, located within the building envelope which means that they have to meet the same setbacks as the single family house. Planner Milillo referred to the following information regarding roosters from page 3 of the staff report:

D. ONE (1) ROOSTER OVER FOUR MONTHS OLD SHALL BE PERMITTED FOR EACH 20,000 SQUARE FEET OF LOT AREA WITH THE EXCEPTION OF THOSE KEPT FOR “CROP AND ANIMAL RAISING, COMMERCIAL”, PROVIDED THAT THE ROOSTER IS CONTROLLED OR CONTAINED IN SUCH A MANNER AS TO COMPLY WITH MUNICIPAL CODE CHAPTER 6, SECTION 6.2 (NOISY ANIMALS).

Note: The Municipal Code will be amended separately to eliminate peacocks from the definition of fowl.

Planner Milillo stated that Council Members in 2010 did not want to allow additional peacocks on lots because of the noise issue. He noted that this was a citizen’s review and that staff was also asking the Planning Commission to initiate the text amendment.

Commissioner Peterson said that it was her understanding this amendment would help families who wanted to have a few chickens so that they could have their own eggs.

Mr. Milillo said that was correct as it seemed to be a trend all over the country that people want the opportunity to have their own eggs.

Commissioner Powell said that people who have chickens are going to want to put their chicken coop away from their house so he did not agree with item C in the regulations; “C. Aviaries shall be located ~~at least~~

~~100 feet from any property line~~ WITHIN THE BUILDING ENVELOPE.” He said that he believed that item D seemed excessive “D. ONE (1) ROOSTER OVER FOUR MONTHS OLD SHALL BE PERMITTED FOR EACH 20,000 SQUARE FEET OF LOT AREA WITH THE EXCEPTION OF THOSE KEPT FOR “CROP AND ANIMAL RAISING, COMMERCIAL”, PROVIDED THAT THE ROOSTER IS CONTROLLED OR CONTAINED IN SUCH A MANNER AS TO COMPLY WITH MUNICIPAL CODE CHAPTER 6, SECTION 6.2 (NOISY ANIMALS)” and lends itself to an enforcement problem. Commissioner Powell said he believed they could do better in writing the language on C and should consider dropping D entirely.

Chairman Wittmann asked what Commissioner Powell’s proposal would be for C.

Commissioner Powell said that he believed that the location of the aviary should be left to the decision of the property owner and should not be dictated.

Chairman Wittmann said that if they delete D as Commissioner Powell proposed would that permit a rooster or would it just delete the ability to have a rooster altogether.

Commissioner Powell said that he was not suggesting that they prohibit roosters. He was suggesting that it was an unenforceable rule. If you’re going to have chickens you’re going to have roosters. If there is an excessive amount of roosters the homeowners will take care of that. Commissioner Powell said that they do not have to create a law to dictate how people manage chickens.

Planner Milillo stated that the language had come from people who raise fowl who said that they realize that the noise from roosters can create a problem but people who want to propagate chickens need to have a rooster. They suggested adding the language so at least they could control the noise.

Commissioner Bianchi said that he would have a difficult time if they allowed it anywhere on the property line because if someone wants to put it furthest away from their house but closer to the neighbor’s house that is not fair to the neighbors. He said that he also did not know how they would enforce all of that and that he thought it was an unenforceable issue as well. He asked if there were any issues with public health.

Planner Milillo said that they have not really heard of any of those types of issues.

Commissioner Bianchi asked if the way the code is currently if you own a SF – 6, SF – 7, or a SF – 8 lots, can you have rodents or fowl?

Planner Milillo said that he did not have all of the provisions in the code in front of him. These animals are only permitted in SF – 8 through SF – 43.

Commissioner Bianchi said that his concern was that when dealing with SF – 8 that brings into play a lot of master planned communities and other neighborhoods. He asked what role the HOA’s play.

Planner Milillo said that he was sure many HOA’s would prohibit that.

Vice Chairman Oehler said that he looked at a chicken coop almost as a storage unit and you can’t put storage units just anywhere. He asked how they looked at chicken coops in the code.

Planner Milillo said that if they were allowed outside of the building envelope they would fall under the accessory structure regulations. Accessory structures can be built fairly close to the property line so long as they are not tall. They can be built within 5 feet of the property line.

Vice Chairman Oehler said that the building envelope actually works. He said for him it almost looks like a secondary home and that was how he was looking at it. In terms of the rooster he did not know how that would be enforced either. He asked if there was a maximum of animals that they could have.

Planner Milillo said there was no maximum in the code.

Commissioner Peterson said that in terms of enforcement, naming the number of roosters that were allowed would make enforcement easier. If code enforcement is called to a property and there are 5 roosters they know how many there are supposed to be. If left wide-open it would be much more difficult to enforce. She said that she would be more comfortable with naming of the number of roosters allowed just because of enforcement issues.

Chairman Wittmann said that she agreed with Commissioner Peterson that naming the number of roosters would be helpful. Typically people put the chicken coop at the back of their lots adjacent to the wall and furthest away from the house. She said that in her opinion it would be best to locate them somewhere in the rear yard setback as long as that particular lot abuts another rear yard setback. She said that she did believe that they need to have some sort of regulation in place but did not have any issue with allowing this type of use by right.

Chairman Wittmann invited citizens who wished to speak on the item to come forward.

Sheri Schmeckpeper, Gilbert, AZ, came forward. She stated that she was in favor of the changes. Her family lives on an acre and a quarter and raises their own chickens. She noted that most chicken coops tend to be the height of your wall or less and are not very intrusive. Location is usually away from the house but can be in all areas of the yard and are many times placed to fit landscaping. Ms. Schmeckpeper said that she would like to speak in favor of those in smaller lots, the 6,000 to 8,000 ft.<sup>2</sup> lots. She said that she would like to see those lot sizes also included so that those people can benefit as well. In terms of roosters, typically if there is a noise problem the owners will take care of that problem.

Donna Bruce, Chandler Arizona, came forward in support of her Gilbert friends who raise chickens.

Chairman Wittmann instructed staff to initiate the text amendment.

**Z13-31 - Citizen Review and initiation of amendment to the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.4 Heritage Village Center Zoning District, Section 2.402 Land Use Regulations, Table 2.402 Land Use Regulations and Article 2.8 Gateway Districts, Section 2.803 Land Use Regulations, Table 2.803 Land Use Regulations to add Colleges, Public or Private to the list of permitted uses.**

Senior Planner Mike Milillo stated that it looks very certain that St. Xavier would be coming to Gilbert and the location that they have chosen is in the Heritage Village Center (HVC), however, colleges, public and private are not permitted within the HVC. They are also not permitted in the similar zoning district which is the Gateway Village Center (GVC). They are permitted within the Gateway Business Center zoning district. The proposed text amendment would add the uses for colleges, public and private as a permitted use in both the HVC and the GVC zoning districts.

Commissioner Bianchi asked if this fell under the definition of the school when it comes to permitted or prohibited uses in certain districts or if they classify it as a college does that exempt it. What would be the prohibited uses around it?

Planner Milillo said that there were two separate uses and that was the issue. There are schools, public and private that really cover the K-12 but colleges are a separate use. Obviously, schools are permitted in these districts, but the colleges are not.

Chairman Wittmann asked if there was anyone present who wished to speak on the case. Seeing none, Chairman Wittmann initiated the text amendment.